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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/740,124 | 12/19/2000 | Dan Anthony Balogh | 3-3-16-12-12 | 4226 |

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EXAMINER

NGUYEN, VAN KIM T

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2661

DATE MAILED: 04/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/740,124

Applicant(s)

BALOGH ET AL.

Examiner

Van Kim T. Nguyen

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-10, 15-18, 22-24, 29-32 and 35-37 is/are rejected.
- 7) ☒ Claim(s) 6-7, 11-14, 20-21, 25-28, 33-34, and 38-41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: _____.

DETAILED ACTION

This Office Action is responsive to communications filed on December 18, 2000.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 8-10, 15-18, and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hall (US 5,491,717).

As shown in Figures 1-9, Hall discloses a method for use in a system (10) where data is transmitted during a handoff having at least two legs (site 1, site 2, site 3) each being between a terminal (18-21) and one of at least two sets (11-13) of communication equipment (col. 2: line 45

Art Unit: 2661

– col. 3: line 27). Responsive to a deterioration in at least one of the characteristics (signal quality factor) of a communication link (steps 54- 55; col. 7: lines 5-25) that is part of at least one of the legs, changing at least one parameter of the data (step 56; col. 6: lines 22-57; and col. 7: lines 25-53); and transmitting a burst of data over just one of the legs using the at least one parameter (step 50, 52, and 57-61; col. 6: line 22 – col. 6: line 28).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 19, 29-32, and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall (US 5,491,717) as applied to claims 1 and 15 above, in view of Lee et al (US 6,490,268).

Hall discloses a method for use in a system where data is transmitted during a handoff having at least two leg by changing at least one of the characteristics of a communication link and transmitting data over just one leg using the at least one parameter.

However, Hall does not call for the at least one parameter comprising the maximum allowed burst duration.

As shown in Figures 1-4, Lee teaches a method of providing burst timing for data transmission in a CDMA communication system.

Since it is highly desirable to enhance the performance and improve the throughput of a communication system, it would have been obvious to one of ordinary skill in the art at the time

Art Unit: 2661

the invention was made to implement Lee's method of providing burst timing in Hall's transmission control system, motivated by the needs to obtain a more efficient transmission rate, and reserving necessary resources when a large amount of high rate data is to be transmitted.

Allowable Subject Matter

Claims 6-7, 11-14, 20-21, 25-28, 33-34, and 38-41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: Claims are considered allowable when reading the claims none of the references of record singly or in combination disclose or suggest the combination limitations specified in the independent claims including establishing a secondary channel over just one leg responsive to the maximum allowed burst duration being at least as large as a threshold burst duration, and transmitting the data burst over the secondary channel.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Chen et al (US 6,697,348); Leung et al (US 6,671,268); Kamel et al (US 6,662,019); Huang et al (US 6,594,243); Huang et al (US 6,594,243); Moon (US 6,567,391); Cheng et al (US

Art Unit: 2661

6,353,602); Hong et al (US 6,337,984); Han (US 6,321,089); Ahn et al (US 6,272,124); Tiedemann, Jr. et al (US 6,216,004); Rezaiifar et al (US 6,167,270); Manning et al (US 6,088,578); Ejzak et al (US 6,069,883); Tiedemann, Jr. et al (US 5,987,326); Felix et al (US 5,946,356); I et al (US 5,734,646); and Gilhousen et al (US 6,546,058).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Van Kim T. Nguyen whose telephone number is 703-305-7692. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Olms can be reached on 703-305-4703. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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